

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NRP HOLDINGS LLC and NRP
PROPERTIES, LLC.

Plaintiff,

v.

CITY OF BUFFALO, BYRON W. BROWN,
STEVEN M. CASEY, DEMONE A. SMITH,
RICHARD A. STENHOUSE, BUFFALO
JEREMIAH PARTNERSHIP FOR
COMMUNITY DEVELOPMENT, INC.,
CITY OF BUFFALO URBAN RENEWAL
AGENCY, JOHN DOE 1-10, and
JOHN DOE COMPANIES 1 - 5.

Defendants.

**DECLARATION OF MICHAEL A.
BATTLE IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

Docket No. 11-CV-472-WMS

MICHAEL A. BATTLE, Esq., makes this Declaration under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am an attorney admitted to practice law in New York State and a partner in the law firm Barnes & Thornburg LLP, attorneys for Defendants City of Buffalo, Byron W. Brown, and Demone A. Smith (collectively the “City”) in this action.
2. I file this declaration in support of the City’s motion for summary judgement.
3. Attached as Exhibit 1 is a true and accurate copy of the Assignment and Release Agreement dated January 14, 2011, bearing bates numbers NRP 01676-1680.
4. Attached as Exhibit 2 is a true and accurate copy of excerpts from Aaron M. Pechota’s deposition testimony, dated November 18, 2010.

5. Attached as Exhibit 3 is a true and accurate copy of the Agreement for Development Services between Belmont Shelter Corp. and NRP Holdings, dated February 21, 2008, and bearing bates numbers NRP 14542-14547.

6. Attached as Exhibit 4 is a true and accurate copy of the Limited Partnership Agreement of East Side Housing II, dated October 20, 2008, bearing bates numbers NRP05824.005-05824.010.

7. Attached as Exhibit 5 is a true and accurate copy of a draft of the Amended and Restated Agreement for Development Services between Belmont Shelter Corp. and NRP Holdings, dated May 2009, and bearing bates numbers NRP 39823-39830.

8. Attached as Exhibit 6 is a true and accurate copy of a draft of the Amended and Restated Development Agreement between Belmont Shelter Corp. and NRP Holdings, dated April, 2009, and bearing bates numbers NRP 30185-30189.

9. Attached as Exhibit 7 is a true and accurate copy of a draft of the Amended and Restated Development Agreement between East Side Housing II and Belmont Shelter Corp., dated April, 2009, and bearing bates numbers NRP 32821-32825.

10. Attached as Exhibit 8 is a true and accurate copy of a draft of the Amended and Restated Development Agreement between East Side Housing II and Belmont Shelter Corp., in Redline, dated April, 2009, and bearing bates numbers NRP 32783-32787.

11. Attached as Exhibit 9 is a true and accurate copy of an email forwarding the attached drafts of the Amended and Restated Development Agreement between East Side Housing II and Belmont Shelter Corp., and Belmont Shelter Corp. and NRP Holdings, dated May, 2009, and bearing bates numbers NRP 3981-39830.

12. Attached as Exhibit 10 is a true and accurate copy of an excerpt from Plaintiffs' Response to City of Buffalo Defendant's First Set of Interrogatories, dated February 1, 2013.

13. Attached as Exhibit 11 is a true and accurate copy of a letter from Timothy Wanamaker to Belmont Shelter Corp. (Michael Riegel), dated February 21, 2008, and bearing bates number NRP 00001 and BEL0000424-428.

14. Attached as Exhibit 12 is a true and accurate copy of a letter from Timothy Wanamaker to Belmont Shelter Corp. (Michael Riegel), dated February 25, 2008, and bearing bates number NRP 00002.

15. Attached as Exhibit 13 is a true and accurate copy of a letter from Timothy Wanamaker to Belmont Shelter Corp. (Michael Riegel), dated February 26, 2008, and bearing bates number NRP 06524.001.

16. Attached as Exhibit 14 is a true and accurate copy of a letter from Timothy Wanamaker to Belmont Shelter Corp. (Michael Riegel), dated March 18, 2004.

17. Attached as Exhibit 15 is a true and accurate copy of an Agreement for Payment in Lieu of Taxes ("PILOT Agreement"), dated November 15, 2006, and bearing bates numbers BEL0003132-3138.

18. Attached as Exhibit 16 is a true and accurate copy of the Low-Income Housing Credit Regulatory Agreement, dated September 25, 2008, and bearing bates numbers BEL0002226-2287.

19. Attached as Exhibit 17 is a true and accurate copy of a First Draft of the Agreement Between The City of Buffalo Urban Renewal Agency and the East Side Housing II and the East Side Housing Development Fund Company, dated March 2009, and bearing bates numbers COB003272-3332.

20. Attached as Exhibit 18 is a true and accurate copy of an Execution Copy of the Development Fee Agreement between East Side Housing and Belmont Shelter Corp., dated October 3, 2005, and bearing bates numbers STN0000931-941.

21. Attached as Exhibit 19 is a true and accurate copy of the East Side Housing Opportunities, Steps for Closing Project by May 31, 2009, and bearing bates number COB016591.

22. Attached as Exhibit 20 is a true and accurate copy of an email chain from Jennifer Baus to George Curral, regarding the East Side Housing – Revised Equity Documents, dated April 8, 2009, and bearing bates numbers NRP 22833-22835.

23. Attached as Exhibit 21 is a true and accurate copy of the excerpts from the City of Buffalo's City Charter.

24. Attached as Exhibit 22 is a true and accurate copy of an email chain from Michael Riegel to Diane Cadle dated February 18, 2009, and bearing bates numbers NRP 000695-697.

25. Attached as Exhibit 23 is a true and accurate copy of a Draft Agreement for Payment in Lieu of Taxes (“PILOT Agreement”), 2008, and bearing bates numbers COB03896-3906.

26. Attached as Exhibit 24 is a true and accurate copy of the excerpts from Peter Savage's deposition testimony dated May 11, 2016.

27. Attached as Exhibit 25 is a true and accurate copy of a letter from Elizabeth Huckabone and David Heller to Mayor Byron Brown, dated July 10, 2009, and bearing bates numbers BEL0000412-413.

28. Attached as Exhibit 26 is a true and accurate copy of a redline draft of the East Side Housing II Amended and Restated Agreement of Limited Partnership, and bearing bates numbers NRP06281.218-6281.312.

29. Attached as Exhibit 27 is a true and accurate copy of a letter from Michael Riegel to Carla Kosmerl, dated March 11, 2008, and bearing bates number NRP 27862.

30. Attached as Exhibit 28 is a true and accurate copy of Plaintiffs' Second Supplemental Response to City of Buffalo Defendant's First Set of Interrogatories.

31. Attached as Exhibit 29 is a true and accurate copy of a letter from Michael Riegel to Rev. Richard Stenhouse, dated March 31, 2009, and bearing bates number BEL0000429.

32. Attached as Exhibit 30 is a true and accurate copy of a Letter from Elizabeth Huckabone to Rev. Richard Stenhouse, dated April 8, 2009, and bearing bates numbers BEL000436-437.

33. I declare under the penalty of perjury, that the foregoing is true and correct.

DATED October 14, 2016
 Washington, DC

/s/ Michael A. Battle

Michael A. Battle, Esq.